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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,492	02/27/2002	David Farcot	P21987	8439

7055 7590 03/17/2004

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/083,492

Applicant(s)

FARCOT ET AL.

Examiner

Christopher Bottorff

Art Unit

3618

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 5,8,11,15,19,21,22,26,27 and 31-34.

Claim(s) rejected: 1-4,6,7,9,10,13,14,16-18,,23-25,28-30 and 35-42.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: In the amendment, claims 15-17 and 19 depend from canceled claim 14. This creates a new issue. An amendment that corrects the dependency of claims 15-17 and 19 and corrects the objections as proposed in this amendment, would be entered upon filing of an appeal brief since it would simplify matters for appeal. The examiner respectfully disagrees with Applicants' remarks regarding the rejections under 112 and 103. In regard to the rejection under 112, first paragraph, the examiner's position is based upon structure and is not a difference of interpretation. The claimed second plate is not disclosed and there is no basis in the disclosure for the claimed comparison. In regard to the rejection under 112, second paragraph, the rejection was not an opportunity to comment but to amend the claims to remove an ambiguity. The disclosed means could allow the plate to be above the disk. The claimed means could only connect the plate to the disk when not affixed to the apparatus if the plate is below the disk. Applicants must amend to remove the ambiguity and clearly claim that the plate is below the disk. In regard to the rejection under 103, the examiner maintains his interpretation of the term "single" and maintains that the combination of Keller and Vitali is proper. Moreover, the finality of the rejection is proper and is maintained. The objection to the drawings does not relate to the rejection of the claims and does not affect the allowability of the claims. Thus, the objection to the drawings is not proper grounds for withdrawing the finality of the rejection. Also, claim 2 is rejected under the same terms of rejection as in the previous rejection. The discussion of claim 2 in greater detail in the remarks did not create a new term of rejection.

Brian J. Johnson
3/15/04